

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

FREDERICK L. SMITH

PLAINTIFF

VS.

CIVIL ACTION NO. 1:09CV122-DAS

**MICHAEL J. ASTRUE,
Commissioner of Social Security**

DEFENDANT

ORDER AWARDING ATTORNEY FEES

Before the court is the claimant's petition (# 19) for payment of attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. In these proceedings, the claimant sought judicial review of the final decision of the Commissioner of Social Security, denying a claim for benefits. By Judgment (# 18) dated June 24, 2010, the court remanded this case to the Commissioner for further proceedings. The claimant now seeks attorney fees under the EAJA on the grounds that he was the prevailing party and that the Commissioner's position was not "substantially justified." By the motion and attached exhibits, the claimant requests an award of \$5,388.90 in attorney fees and expenses and \$350.00 in costs to be awarded for the benefit of his attorney, Gary R. Parvin. The Commissioner does not object to the claimant's request for fees and costs and agrees that the claimant should receive the total amounts requested.

The court, having considered the foregoing and the record of this case, finds that \$5,388.90 in attorney fees and expenses is reasonable and appropriate and that the claimant should also be reimbursed \$350.00 in costs. Therefore, it is

ORDERED that the claimant's motion for payment of attorney fees under the EAJA is hereby **GRANTED**, and the Commissioner shall pay the claimant \$5,388.91 for the benefit of the above named attorney.

IT IS FURTHER ORDERED that the claimant shall also receive \$350.00 from the Judgment fund., also awarded for the benefit of his attorney.

THIS, the 19th day of July, 2010.

/s/ David A. Sanders
U. S. MAGISTRATE JUDGE